

REMARKS

In the Office Action, claims 21 and 32 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 15, 17, 21, 23-27 and 29-32 were rejected under 35 U.S.C. 102(e) as being anticipated by Taylor, U.S. Publication No. 2005/0216081 (“Taylor”). Claims 15, 18 and 19 were rejected under 35 U.S.C. 102(e) as being anticipated by Kuras, U.S. Patent No. 7,169,181 (“Kuras”). Claim 28 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor.

In response, claims 15, 21 and 32 have been amended. Claim 17 has been canceled. No new matter has been added. Upon entry of the amendments, claims 15, 18-19, 21 and 23-32 will be pending. Claims 16, 20 and 22 were previously canceled without prejudice or disclaimer of the subject matter recited therein.

Reconsideration of the application in view of the amendments and following remarks is respectfully requested.

Rejection to claim 21 and 32 under 35 U.S.C. § 112, second paragraph

Claims 21 and 32 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Claim 21 was rejected for depending on a canceled claim 20. Claim 32 was rejected for not providing proper antecedent basis for the term “the biocompatible material”. Applicants have amended claim 21 to depend from claim 15 and amended claim 32 to depend from claim 30 as suggested by the Examiner.

Rejection to claims 15, 17, 21, 23-27 and 29-32 under 35 U.S.C. § 102(e), Taylor

Claims 15, 21, 23-27 and 29-32 were rejected under 35 U.S.C. § 102(e) as anticipated by Taylor.

Taylor was filed on March 29, 2004, which is the effective date of the reference as prior art under 35 U.S.C. § 102(e).

The present application is a national phase of PCT/DE05/00373, filed on September 29, 2006 and claims priority to German Patent Application No. DE 10 2004 016 032.5, filed on March 30, 2004. Thus, March 30, 2004 is the constructive reduction to practice date for the present application.

Applicants submit herewith a Declaration under 37 CFR 1.131 establishing that the subject matter of the present invention was invented prior to the effective prior art date, March 29, 2004, of the Taylor reference. The declaration and attachments thereto establish that the Applicants had conceived the present invention prior to March 29, 2004, coupled with due diligence from prior to March 29, 2004 to the filing of the priority document of the present application on March 30, 2004. *See MPEP 715.*

It is respectfully submitted, in view of the earlier invention date of the present application, that the Taylor reference is not prior art under 35 U.S.C. § 102(e).

Accordingly, withdrawal of the rejections to claims 15, 17, 21, 23-27 and 29-32 under 35 U.S.C. § 102(e) as anticipated by Taylor is respectfully requested.

Rejection to claims 15, 18 and 19 under 35 U.S.C. § 102(e), Kuras

Claims 15, 18 and 19 were rejected under 35 U.S.C. § 102(e) as being anticipated by Kuras.

Independent claim 15 has been amended to include the feature of claim 17, which has been canceled. As amended, claim 15 includes all of the features of previous claim 17, which does not stand rejected over Kuras.

Withdrawal of the rejections to claims 15, 18 and 19 under 35 U.S.C. § 102(e) is respectfully requested.

Rejection to claim 28 under 35 U.S.C. § 103(a), Taylor

Claim 28 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor.

As previously discussed, Applicants respectfully submit that the Taylor reference is not prior art under 35 U.S.C. § 102(e), and therefore is unavailable as prior art under 35 U.S.C. § 103(a) because the present invention had been conceived prior to March 29, 2004, the effective filing date of Taylor.

Accordingly, withdrawal of the rejection to claim 28 under 35 U.S.C. § 103(a) is respectfully requested.

CONCLUSION

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted

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